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SUPER MICRO COMPUTER, INC.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 SUPER MICRO COMPUTER, INC., a
12 Delaware corporation,

13 Plaintiff,

14 v.

15 SCIENTIFIC TELECOMMUNICATIONS
16 LLC,

17 Defendants.

CASE NO. 15-cv-4447

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT OF
U.S. PATENT NOS. 7,222,188; 6,058,429; AND
6,546,424**

JURY TRIAL DEMANDED

1 Plaintiff Super Micro Computer, Inc. (“Super Micro”), hereby demands a jury trial, and
 2 for its Complaint for Declaratory Judgment against Defendant Scientific Telecommunications
 3 LLC (“SciTel”), alleges as follows:

4 **PARTIES**

5 1. Super Micro is a Delaware corporation having its principal place of business at
 6 980 Rock Avenue, San Jose, California 95131. Super Micro was founded in 1993 and operates
 7 primarily in the server technology and green computing solution sectors. Super Micro offers a
 8 broad line of products that include components for building server solutions for a wide range of
 9 applications, including, but not limited to, Layer 3 switches.

10 2. Upon information and belief, SciTel is a Delaware Limited Liability Company
 11 operating out of a virtual office at 913 North Market Street, Suite 200, Wilmington, Delaware
 12 19801. SciTel was founded on September 8, 2014. Upon information and belief, SciTel has not
 13 practiced its patents since its entity was formed. Instead, Super Micro is informed and believes
 14 that SciTel operates primarily as a patent licensing entity.

15 **JURISDICTION AND VENUE**

16 3. As set forth herein, subject matter jurisdiction, personal jurisdiction, and venue are
 17 proper in this Court.

18 4. Upon information and belief, SciTel purports to be the assignee of all right and
 19 title to various United States patents, including: U.S. Patent Nos. 7,222,188 (“the ’188 Patent”);
 20 6,546,424 (“the ’424 Patent”); and 6,058,429 (“the ’429 Patent”). True and accurate copies of the
 21 ’188, ’424, and ’429 Patents (collectively, “the SciTel Patents”) are attached to this Complaint for
 22 Declaratory Judgment as **Exhibits A-C**.

23 5. Many of the party witnesses are located in the Northern District of California.
 24 Super Micro was founded in San Jose, California, and has remained in the same location since the
 25 company’s inception. Super Micro’s executive leadership and the heads of its U.S. departments
 26 are all located in Northern California.

27 6. Upon information and belief, many of the non-party witnesses are located in the
 28 Northern District of California. Donald Byrne and Jan Bialkowski are named inventors of the

1 '188 Patent and the '429 Patent and are believed to reside in Northern California. In addition, the
2 inventions of all three of the SciTel Patents were developed at Bay Networks, which had its
3 principal place of business in Santa Clara, California. Many key former employees of Bay
4 Networks, such as former Executive Vice President of Global Operations Ralph Russo, still reside
5 in Northern California.

6 7. Upon information and belief, SciTel acquired the SciTel Patents from a portfolio
7 owned by Trident IP Solutions LLC ("Trident"). In a press release dated March 31, 2014, the
8 SciTel Patents were among six separate patent portfolios offered for sale by Trident.

9 8. Upon information and belief, SciTel asserted, and continues to assert, the SciTel
10 Patents against technology companies. SciTel brought suit for all three of the SciTel Patents
11 against Brocade Communications Systems, Inc. ("Brocade") in Delaware. Brocade's world
12 headquarters are within the Northern District of California. Brocade moved to transfer the case to
13 Northern California, arguing that Northern California was the appropriate venue. The case settled
14 prior to resolution of the motion. SciTel also brought suit for the '188 Patent and the '429 Patent
15 against Juniper Networks, Inc. ("Juniper") in Delaware. Juniper's world headquarters are also in
16 the Northern District of California. Juniper also moved to transfer the case to Northern
17 California. The motion was not ruled upon, as the parties appear to have settled.

18 9. Upon information and belief, SciTel retained Russ August & Kabat, a California
19 law firm, as counsel for all of its previous litigation involving the patents-in-suit.

20 10. Upon information and belief, SciTel retained Capital Legal Group PLLC, a
21 Washington D.C. law firm, as counsel for this dispute to discuss licensing of SciTel's patent
22 portfolio.

23 11. By letter dated March 3, 2015, SciTel, through its counsel, informed Super Micro
24 that SciTel is the owner of the '188, '424, and '429 Patents. SciTel alleged that Super Micro
25 "should be interested in licensing opportunities related to the SciTel patents" because Super
26 Micro "sells Layer 3 Switches and other products." In that letter, SciTel demanded that Super
27 Micro engage in licensing negotiations and threatened that "[SciTel] will take all steps necessary
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1 to protect its intellectual property rights.” SciTel sent this letter to Super Micro in San Jose,
2 California.

3 12. By letter dated April 17, 2015, SciTel, through its counsel, informed Super Micro
4 that it had initiated litigations against Brocade and Juniper. SciTel again demanded that Super
5 Micro engage in licensing negotiations and threatened that “[SciTel] will take all steps necessary
6 to protect its intellectual property rights.” SciTel sent this letter to Super Micro in San Jose,
7 California.

8 13. In response to Super Micro’s denial that the accused products infringe the SciTel
9 Patents, SciTel, by letter dated July 21, 2015, stated that it “believe[s] that Super Micro products
10 still infringe.” This letter was also sent to Super Micro in San Jose, California.

11 14. By letter dated June 25, 2015, Super Micro responded to SciTel’s allegations by
12 setting forth a detailed analysis explaining why Super Micro’s products do not infringe the
13 asserted SciTel Patents. Despite Super Micro’s explanations and subsequent correspondence,
14 SciTel has continued to contact Super Micro unabated and insists on making a meritless
15 infringement assertion.

16 15. As a result of SciTel’s repeated assertions of its patent rights against Super Micro
17 and Super Micro’s belief in its right to engage in business without a license to the SciTel Patents,
18 an actual controversy has arisen and now exists between the parties as to whether Super Micro
19 infringes, contributes to the infringement of, or induces the infringement of any valid claim of
20 each of the ’188 Patent, the ’424 Patent, and/or the ’429 Patent.

21 **COUNT ONE – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF**
22 **U.S. PATENT NO. 7,222,188**

23 16. Super Micro repeats and incorporates by reference its allegations in the foregoing
24 paragraphs.

25 17. An actual controversy has arisen and now exists between the parties as to whether
26 Super Micro infringes, contributes to the infringement of, or induces infringement of any valid
27 claim of the ’188 Patent.

18. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Super Micro requests a declaration from the Court that Super Micro has not infringed any valid claim of the '188 Patent, either directly, contributorily, or by inducement or either literally under the doctrine of equivalents.

**COUNT TWO – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF
U.S. PATENT NO. 6,546,424**

19. Super Micro repeats and incorporates by reference its allegations in the foregoing paragraphs.

20. An actual controversy has arisen and now exists between the parties as to whether Super Micro infringes, contributes to the infringement of, or induces infringement of any valid claim of the '424 Patent.

21. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Super Micro requests a declaration from the Court that Super Micro has not infringed any valid claim of the '424 Patent, either directly, contributorily, or by inducement or either literally under the doctrine of equivalents.

**COUNT THREE – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF
U.S. PATENT NO. 6,058,429**

22. Super Micro repeats and incorporates by reference its allegations in the foregoing paragraphs.

23. An actual controversy has arisen and now exists between the parties as to whether Super Micro infringes, contributes to the infringement of, or induces infringement of any valid claim of the '429 Patent.

24. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Super Micro requests a declaration from the Court that Super Micro has not infringed any valid claim of the '429 Patent, either directly, contributorily, or by inducement or either literally under the doctrine of equivalents.

RESERVATION OF RIGHTS

25. Super Micro hereby reserves its right to supplement with additional defenses as discovery proceeds in this matter.

PRAYER

WHEREFORE, Super Micro prays for judgment as follows:

1. A declaration that Super Micro has not infringed, either directly or indirectly, any valid and enforceable claim of the '188, '424, and '429 Patents;
2. A declaration that this case be considered exceptional under 25 U.S.C. § 285, and that Super Micro be awarded its costs and attorney's fees to be paid by SciTel;
3. An award of any and all equitable relief to which Super Micro is entitled; and
4. Such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Super Micro Computer, Inc. hereby demands a trial by jury on all issues so triable.

Dated: September 28, 2015

I. NEEL CHATTERJEE
Orrick, Herrington & Sutcliffe LLP

By: /s/ I. Neel Chatterjee
I. NEEL CHATTERJEE
Attorneys for Plaintiff
SUPER MICRO COMPUTER, INC.